

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
 APPELLATE SIDE
 Criminal Application No.547 of 2007
 In
 Criminal Appeal No.516 of 2001

Ashok Durgashanker Awasthi
 Vs.

Applicant

The State of Maharashtra

Respondent

Through jail.
 Mr.D.R.More, APP for State.

CORAM: B.H.MARLAPALLE, J.

August 2, 2007.

P.C.

. Pursuant to the order dated 3/7/2007 the learned APP has placed on record the affidavit of Shri G.L. Nimgaonkar, who retired as the Assistant Police Commissioner and who was the Investigating Officer in C.R.No.184/1999 registered with the Saki Naka Police Station, Mumbai.

. This application sent through jail states that C.R.No.184/1999 was subsequently converted into Special Case No.3 of 1999 and it was decided by the learned MCOC Special Judge on 7/6/2001.

. The applicant has been sentenced to suffer RI for ten years and to pay a fine of Rs.7 lakhs, in default to undergo 15 months' RI. The applicant, who

is presently undergoing the sentence, claims that a sum of Rs.2,70,000/- was seized from him during the investigation resulting into the said Special Case and he prays for the said amount being adjusted against the fine amount.

. In the affidavit-in-reply filed by Shri Nimgaonkar it has been stated that a trap was laid and the amount of Rs.2,70,000/- was recovered during the search of accused no.4 while he was arrested from Flat No.4 in Twilight Building in Raheja Vihar Housing Complex, Powai, Mumbai on 2/7/1999. The trial Court has recorded a specific finding at page 23 while dealing with the findings on Issue No.5 that the said amount was recovered under panchanama at Exhibit 37 from the flat and it was not recovered from the person or from the possession of the applicant. The trial Court has further recorded that none of the accused could give explanation regarding the seized amount of Rs.2,70,000/- from flat no.4 of Twilight Building and, therefore, while passing the order regarding the disposal of the property the trial Court has specifically ordered that the genuine currency notes seized in the case shall stand forfeited to the State Government and shall be

deposited with the treasury.

. The claim, therefore, made by the applicant
for adjustment of Rs.2,70,000/- cannot be considered
and more so when the applicant's Criminal Appeal
No.516 of 2001 has already been dismissed.

. Hence the application is rejected.

. This order be communicated to the applicant in
jail.

(B.H.MARL